

## **Remarks**

Applicants would first like to express their appreciation to Examiner Nadav for a thorough examination. Claims 1-60 are currently pending in the present application, claims 1-3 stand rejected, claims 4 -18 and 20-25 are objected to, claims 26-49 are allowed, and claims 50-60 are withdrawn from consideration. The following comments are directed to the referenced paragraphs in the Office Action dated July 9, 2003.

### **Paragraphs 1-3**

The Applicants appreciate the acknowledgement of the election of the invention of claims 1-49, the acceptance of the oath/declaration submitted January 29, 2000, and the acceptance of the formal drawings submitted January 29, 2000. Applicants have canceled claims 50-60 in the present amendment, without prejudice to their right to pursue these claims in a continuing application.

### **Paragraph 4**

Applicants acknowledge the failure to provide an abstract of the disclosure as pointed out in the Office Action. An abstract as required by 37 CFR 1.72(b) is provided in the present amendment.

### **Paragraph 6**

Claims 2, 18, 19, 27, 42, and 43 are objected to for certain informalities. These informalities have been corrected by the present amendment. Specifically, claims 2 and 27 are amended to recite "a first electrode ..." and "a second electrode ..." claims 18 and 42 are

amended to recite “the compensation layer and the first stress layer have intrinsic stresses” for antecedent basis and claims 19 and 43 were correct to recite “counter contact” in place of “second contact.” Additionally, various claims were amended to correct typographical errors in the word “microstructure.”

### **Paragraphs 7 and 8**

Claims 1-3 and 19 are rejected under 35 USC 102(e) as being anticipated by Ichiya et al. (U.S. Pat. No. 5,544,001). “A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). Claim 1 is not anticipated, because it includes a feature which is neither disclosed nor suggested by the cited references, namely “the lower portion is formed from a substrate and the upper portion is formed on the substrate to avoid bonding of the lower portion to the upper portion.” Ichiya et al. teach away from the claimed invention, wherein the upper and lower fixed bases 10 and 20 are *each* formed of a silicon wafer and integrally *bonded together*. An upper portion deposited on the lower portion according to the claimed invention eliminates the bonding of substrates described in the cited reference, thereby eliminating a potential failure mechanism, as well as a source of significant processing tolerances. The cited references neither disclose nor suggest this claimed feature. Accordingly, Applicants contend that claim 1 cannot be anticipated by the cited references.

Claims 2, 3, and 19 depend from claim 1 and are allowable for the reasons that claim 1 is allowable, provided above.

**Paragraph 9**

Applicants gratefully acknowledge the allowance of claims 26-49.

**Paragraph 10**

Applicants gratefully acknowledge the indicated allowability of claims 4-18 and 20-25.

Claims 4 and 20 have been rewritten in independent form as kindly suggested in the Office Action. Claims 5-18 depend from claim 4 and claims 21-25 depend from claim 20. According, Applicants contend that claims 4-18 and 20-25 are now in condition for allowance.

**Paragraph 11**

Applicants object to Examiner's statement of reasons for allowance to the extent that the characterization of Ichiya et al. conflicts with Applicants' remarks provided above. Applicant further object to Examiner's statement of reasons for allowance to the extent that they might be interpreted to limit the scope of the claims of the present application. A claimed invention must be viewed as a whole. Most inventions are a combination of known elements. The mere fact that one or more elements of an invention, or even every element of an invention, may be known does not render the invention, as a whole, unpatentable.

## Conclusion

In view of the amendments and for all of the reasons recited above, Applicants respectfully submit that claims 1-49 of the present application are now in condition for allowance, which action is respectfully requested.

Respectfully submitted,

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